

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : Cr. 05-060
v. : U.S. Courthouse
: Brooklyn, New York
ANTHONY AIELLO, :
Defendant. : December 16, 2008
3:00 p.m.

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TRANSCRIPT OF SENTENCE
BEFORE THE HONORABLE NICHOLAS G. GARAUFIS
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: BENTON J. CAMPBELL
United States Attorney
By: JEFFREY GOLDBERG
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For the Defendant: SUSAN KELLMAN, ESQ.

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1 (Open court-case called.)

2 THE COURT: I am going to start with Mr. Mancuso and
3 Mr. Aiello briefly and then I will do the sentencings.

4 I note for the record that Mr. Mancuso and Mr.
5 Aiello are present in the courtroom. Counsel for Mr. Mancuso?

6 MR. MITCHELL: John Mitchell.

7 THE COURT: Good afternoon, sir.

8 Counsel for Mr. Aiello?

9 MS. KELLMAN: Susan Kellman.

10 THE COURT: Miss Kellman, good afternoon. All
11 right. Preliminarily, I have a request for a member of Mr.
12 Pizzolo's family to speak to the court.

13 Is Connie Pizzolo here?

14 MR. GOLDBERG: Yes, your Honor.

15 THE COURT: State your name for the record.

16 MS. PIZZOLO: Connie Pizzolo.

17 THE COURT: Please be seated.

18 You may proceed.

19 MS. PIZZOLO: My name is Connie Pizzolo and we all
20 sit here today a child to someone, whether that someone be
21 your mother, your father, your adopted mother or adopted
22 father, you're someone's child. You were born to someone and
23 my father was Randy Pizzolo. I was his firstborn and today I
24 sit before you a fatherless woman and a mother of two
25 beautiful girls, two girls that will never have seen their

1 grandfather's smile, two girls that will never hear their
2 grandfather's jokes, sit on their grandfather's lap or feel
3 their grandfather's embrace because of two cowards that have
4 pled guilty to taking my father's life by way of murder.

5 On December 1st, 2004, my dad was found shot to
6 death on a street in Greenpoint Brooklyn. He was 43-years-old
7 when he died. These would worthless lives on command shot and
8 killed my father. Whether one pulled the trigger and one
9 other stood by, whatever, it's all the same difference to me.

10 It's unfortunate that we can't control the choices
11 people make for their own lives, whether their choices are as
12 adults, parents or choices that our children make.

13 We do not choose who we're born to. We are own
14 people, free to make each decision that we choose and these
15 despicable people chose not to be a part of society that is
16 free to make decisions on their own but to be followers
17 instead of leaders, and I will never forgive either of you for
18 taking my father's life. That will be your guilt to burden.

19 You both need to live with the knowledge of knowing
20 you all took away the one and only person in this whole world
21 that actually loved me unconditionally, and that was my dad,
22 the one person I could talk freely with and receive advice
23 from as a father to a daughter, you took away the love of a
24 parent.

25 My dad meant the world to me and although he wasn't

1 perfect, he was perfectly and perfect to me. His murder has
2 affected my life in every aspect possible. You might ask how.
3 Not being able to pick up the phone and call him when
4 something's wrong or something is so well accomplished that a
5 dad's phone call is due, it really hurts.

6 Everywhere I go I'm reminded of my father. I'm
7 haunted by our father/daughter moments and memories and I
8 wish, I wish you both are haunted by a ghost. I can't spend
9 one week or a holiday without wishing my father was here
10 spending time, celebrating, drinking, cooking, feasting with
11 us, that's what hurts worse than any pain I've ever felt, and
12 you two are the reason for my pain, both of you -- and more, a
13 few more, but they'll get theirs in the end too.

14 Father's Day, what am an I celebrating? My kids
15 celebrate their father but me I have no one. I still
16 celebrate his memory but it's not the same. Christmas,
17 Thanksgiving, Easter Holidays, period, my dad was like one of
18 my best friends and how he's gone.

19 The injuries my family and I have suffered are
20 emotional and have lasted every day of our lives. I'm glad
21 the sentence wasn't up to me to decide because I would have
22 given you both life without parole, 24 hour lock down and
23 confined you both to a box with no visitation or communication
24 with the outside world. This way you could both be alive but
25 dead. People could talk about your memories and laugh at

1 holiday parties or whatever and remember what you said to them
2 but have no way to communicate with you.

3 In the end you'll meet your maker and I think with
4 souls that dirty you'll need to do a lot of praying for the
5 mercy of God. In the Book of Revelation it says: "Let the
6 cowardly, the unbelieving, the vile, the murderers, the
7 sexually immoral and all the liars -- their place will be in
8 the fiery lake of the burning sulfur. This is the second
9 death" that I wish onto you.

10 THE COURT: All right. At this time we will proceed
11 with the sentencing in United States of America against
12 Michael Mancuso and Mr. Aiello may be returned to the cell:

13 I direct that the court reporter to make Ms.
14 Pizzolo's statement a part of the record of both this
15 sentencing and the sentencing of Anthony Aiello.

16 THE CLERK: United States of America v. Anthony
17 Aiello.

18 THE COURT: Good afternoon, Mr. Aiello.

19 THE DEFENDANT: Good afternoon.

20 THE COURT: This is a sentencing for Anthony Aiello.
21 Mr. Aiello, are you satisfied with the assistance that your
22 attorney has given you thus far in this matter?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. I have the following materials in
25 the sentencing file. There is a presentence investigation

1 report, dated November 7, 2008.

2 Miss Kellman, have you seen the report and discussed
3 it with your client?

4 MS. KELLMAN: I have, yes, your Honor.

5 THE COURT: Okay. There's an addendum to the
6 presentence report, dated December 5, 2008.

7 Have you seen that as well?

8 MS. KELLMAN: Yes, your Honor.

9 THE COURT: There's a second addendum, dated
10 December 11th.

11 Have you seen that?

12 MS. KELLMAN: Your Honor.

13 THE COURT: Have you discussed it with your client?

14 MS. KELLMAN: Yes, your Honor, I have.

15 THE COURT: Is there anything else?

16 MR. GOLDBERG: No.

17 THE COURT: That's it.

18 MS. KELLMAN: Yes.

19 THE COURT: Okay. Under the presentence report, the
20 defendant has a total offense level of 40, criminal history
21 category 3, and the sentencing range is 360 months to life in
22 prison.

23 Does everyone agree with that?

24 MR. GOLDBERG: With the range, your Honor, yes.

25 MS. KELLMAN: Yes, your Honor.

1 THE COURT: All right. Now, the defendant pleaded
2 guilty to counts 1 and 3 of '05 Cr. 60 S-9. Is that right?

3 MR. GOLDBERG: Yes, your Honor.

4 MS. KELLMAN: Yes, your Honor.

5 THE COURT: Is there anything that the government
6 has to say before I sentence the defendant?

7 MR. GOLDBERG: No, your Honor.

8 THE COURT: Miss Kellman?

9 MS. KELLMAN: Nothing, your Honor.

10 THE COURT: All right. Mr. Aiello, is there
11 anything you have to say?

12 THE DEFENDANT: No, sir.

13 THE COURT: All right. Are you ready to be
14 sentenced?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: I have considered the factors under
17 3553(a) of Title 18 of the United States Code. The sentence I
18 am going to impose takes into consideration those factors.

19 I note that the defendant has agreed to a designated
20 sentence pursuant to his plea agreement. I sentence the
21 defendant as follows, 360 months or, to put it another way,
22 30 years, in the custody of the Attorney General; three years
23 of supervised release, with the following special conditions
24 of supervised release, to wit: The defendant shall not
25 possess a firearm, ammunition or destructive device. The

1 defendant shall not associate in-person, through mail or
2 electronic mail, or telephone with any individual with an
3 affiliation to any organized crime groups, gangs, or any other
4 criminal enterprise; nor shall the defendant frequent any
5 establishment or other locale where these groups may meet, but
6 not limited to prohibition list provide by the Probation
7 Department.

8 I'm imposing a search condition. The defendant
9 shall submit his person, residence, place of business, vehicle
10 or any other premises under his control to a search on the
11 basis the probation officer has a reasonable belief that
12 contraband or evidence of a violation of the conditions of
13 release may be found. The search must be conducted in a
14 reasonable manner and at a reasonable time. The defendant's
15 failure to submit to a search may be grounds for revocation.

16 The defendant shall inform any other residents the
17 premises may be subject to search pursuant to this condition.
18 There is a \$200 special assessment, which is mandatory. I'm
19 not imposing a fine as the defendant does not have the ability
20 to pay a fine.

21 You have the right to appeal your sentence to the
22 U.S. Court of Appeals for the Second Circuit if you believe
23 the court has not properly followed the law in the sentencing
24 you. Your time to appeal is extremely limited and I point out
25 that, among other things, you have agreed not to appeal if the

1 sentence I impose upon you is 360 months or below.

2 Anything further from the government? .

3 MR. GOLDBERG: No. I assume, your Honor, in the
4 judgment, in the J&C, will indicate it's 240 months on count
5 one with 120 months consecutive as to count three, and --

6 THE COURT: That's correct.

7 MR. GOLDBERG: We move to dismiss counts 2, 4, 5 and
8 10 through 16 of S-9.

9 THE COURT: Motion is granted.

10 Miss Kellman, anything else from you?

11 MS. KELLMAN: Your Honor, just one thing further
12 with respect to a designation. I've heard the court's
13 comments up to this point, obviously, and shared them with my
14 client.

15 I know that, from reviewing the presentence report,
16 the court is aware of, among other things, my client's
17 father's been incarcerated for the last 22 years and the
18 family, what family he has, is just his mother in her
19 seventies, and he has a brain damaged brother who is
20 41-years-old, and his mother has been making the trips to his
21 father for the last 22 years.

22 I would only ask on behalf, really, of his family
23 that the court consider recommending a designation that is
24 proximate to New York City. His family has essentially no
25 funds, as the court knows from the presentence report, he has

1 no funds, and his mother doesn't drive nor does his brother,
2 nor is his brother capable of driving, and so a recommendation
3 to a facility that was proximate to New York City would make
4 visits by his family possible, particularly since they visit
5 his father and have for the last 22 years.

6 THE COURT: Thank you.

7 As I said earlier, it's really terribly unfortunate
8 that the conduct of this defendant and the others has deprived
9 a number of families of their loved ones, and while I
10 appreciate to some degree the sense of remorse that some
11 people feel, at least they appear to feel or they state, and I
12 take them at their word, unfortunately, Mr. Aiello is a person
13 who must lack any remorse for anything, and I don't see why
14 the court should grant mercy of that kind to someone who is
15 totally remorseless, unfeeling, and has conducted himself in a
16 manner that cannot be sanctioned in the civilized world.

17 I'm 60-years-old and I must say, I really don't
18 understand how people can behave like that and I certainly
19 don't intend to grant any special consideration to a person
20 who is so unfeeling and unremorseful.

21 Your application is denied. We're concluded.

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